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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,348	07/20/2000	Kazuhito Ishida	Hitachi-0009	3792

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EXAMINER

SAM, PHIRIN

ART UNIT	PAPER NUMBER
2661	4

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/620,348

Applicant(s)

ISHIDA ET AL.

Examiner

Phirin Sam

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 9, 13, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Wan et al. (U.S. Patent 6,539,205).

Wan et al discloses the invention (**claims 1, 9, 13, and 21**) as claimed including a base station controller to control a plurality of base stations communicating with a mobile station, the base station controller comprising:

(a) a radio resource controller for maintaining a plurality of links between the mobile station and each of the base stations that the mobile station is currently reachable, the radio resource controller also maintaining separate information indicative of communication quality of each of the links (see Fig. 4, element 206, col. 9, lines 48-50).

(b) a link data rate controller connected to the radio resource controller for determine a data rate for each of the links based upon the communication quality (see Fig. 4, element 150, col. 9, lines 54-61).

(c) a data distributor connected the radio resource controller for distributing communication data among the links to be transmitted at the corresponding data rate (see Fig. 4, element 210, col. 9, lines 61-63).

3. Claims 12 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Li (U.S. Patent 6,141,353).

Regarding claims 12 and 24, Li discloses a mobile station to be communicated with a plurality of base stations, the mobile station comprising:

(a) a receiver for receiving sub frame information from one of the base stations, the sub frame information indicative of dividing a frame of transmission data and a data rate (see Fig. 1, col. 8, lines 35-42).

(b) a sub frame generator connected to the receive for dividing the transmission data based into a plurality of sub frame upon the sub frame information (see Fig. 3, element 50, col. 9, lines 46-53).

(c) a transmitter connected to the sub frame generator for transmitting the sub frames of the transmission data at the data rate (see Fig. 1, col. 8, lines 35-42).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-8, 10, 11, 14-20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan et al (U.S. Patent 6,539,205) in view of Huang et al (U.S. Patent 6,590,879).

Regarding claims 2-8, 10, 11, 14-20, 22, and 23, Wan et al does not disclose the report signal. However, Huang et al discloses the report signal (see Figs. 1 and 2, col. 8, lines 1-12). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the report signal teaching by Huang et al with Wan et al. The motivation for doing so would have been to provide to make the determination on when to handoff. Therefore, it would have been obvious to combine Huang et al and Wan et al to obtain the invention as specified in the claims 2-8, 10, 11, 14-20, 22, and 23.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Bark et al (U.S. Patent 6,445,917) discloses mobile station measurements with event-based reporting.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phirin Sam whose telephone number is (703) 308 - 9294. The Examiner can normally be reached on Monday - Friday from 8:30AM - 4:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas W. Olms can be reached at (703) 305 - 4703. The fax number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217 - 9197 (toll-free).

Respectfully submitted,

Date: May 31, 2004

A handwritten signature in black ink, appearing to read 'Phirin Sam', written over a horizontal line.

Phirin Sam
Patent Primary Examiner